

SECTION XVII. PRE-EXISTING NON-CONFORMING USES, STRUCTURES AND LOTS.

The rights concerning pre-existing non-conforming uses, structures and lots shall be as set forth in Section 6 of Chapter 40A M.G.L. (The Zoning Act) and as otherwise defined in this SECTION XVII.

A. DISCONTINUED USES.

Except for the repair and reconstruction rights of an owner under Part D. DISASTER REBUILD below, non-conforming uses and/or structures abandoned or not used for a period of more than two (2) years shall be subject to all provisions of this Zoning Bylaw.

B. CHANGES TO NON-CONFORMING STRUCTURES.

1. One and Two-Family Dwellings.

Application for changes to non-conforming One and Two-Family Dwellings, except changes which themselves comply with this Zoning Bylaw, shall require the Zoning Board of Appeals to identify the particular respect or respects in which the existing structure does not conform to the requirements of the present Zoning Bylaws and then determine whether the proposed alteration or addition would intensify the existing non-conformities or result in additional ones.

Should the Zoning Board of Appeals conclude that there will be no intensification or addition, the applicant will be entitled to the issuance of a permit.

If the conclusion is otherwise, the applicant will be required to show that the change will not be substantially more detrimental than the existing non-conforming structure or use to the neighborhood.

Should the Zoning Board of Appeals find that such change will not be substantially more detrimental than the existing non-conforming structure or use to the neighborhood, the applicant will be entitled to the issuance of a permit.

2. Other than One and Two-Family Dwellings.

Application for changes to non-conforming structures other than One and Two-Family Dwellings shall be governed by Section 6 of Chapter 40A M.G.L. (The Zoning Act).

Findings referred to in this SECTION XVII. shall be made by the Zoning Board of Appeals acting as Special Permit Granting Authority under the provisions of SECTION XXV.

C. DISASTER REBUILD.

Pre-existing non-conforming buildings, damaged or destroyed by accidental cause, including fire, or otherwise damaged or destroyed without the consent of the owner, may be repaired or reconstructed, provided that:

1. the non-conforming nature of the repaired or reconstructed building is not increased in any respect;
2. the repaired or reconstructed building shall be used in the same manner as the building being replaced or otherwise used in compliance with the use limitations of the applicable zoning district; and
3. a building permit for the repair or reconstruction shall be issued within two years from the date of the damage or destruction; time incurred in resolving an appeal or other court action or insurance claim shall not be counted as part of the two year limit; the Zoning Board of Appeals may extend the two year period for good cause.

D. CONFORMANCE WITH SUBSEQUENT AMENDMENTS.

Construction or uses under a building or special permit shall conform to any subsequent amendment of this Zoning Bylaw unless the construction or use is commenced within a period of not more than six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

Except as herein above provided, a pre-existing non-conforming structure shall not be altered, extended, repaired or reconstructed except in conformity with all provisions of the Zoning Bylaws in effect at the time of such alteration, extension, repair or reconstruction.